

**In re: MAJESTIC PRODUCE CORP.
PACA Docket No. D-01-0005.
Decision Without Hearing by Reason of Default.
Filed June 19, 2001.**

Kimberly Hart, for Complainant.
Respondent, Pro se.

Decision issued by Dorothea A. Baker, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a *et seq.*)(hereinafter referred to as the "Act"), instituted by a complaint filed December 6, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleges that during the period June 1997 through February 1999, Respondent failed to make full payment promptly to 13 sellers in the total amount of \$676,276.81 for 209 lots of perishable agricultural commodities that it purchased, received and accepted in interstate commerce.

A copy of the complaint was served upon Respondent on January 10, 2001 in conformity with Section 1.147 of the Rules of Practice. This complaint has not been answered. The time for filing an answer having run, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

1. Respondent, Majestic Produce Corp., is a corporation organized and existing under laws of the state of New York. Its mailing address is 402 E. 83rd Street, Brooklyn, New York, 11236.
2. At all times material herein, Respondent was either licensed under, or operating subject to, the provisions of the Act. PACA license number 961833 was issued to Respondent on June 24, 1996. This license was administratively suspended June 2, 1999, pursuant to section 13(a) of the Act, when representatives of the Secretary were refused access to Respondent's records (7 U.S.C. §499m(a)). Respondent's license subsequently terminated on June 24, 1999, when Respondent failed to pay the required annual renewal fee.
3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.
4. As set forth in paragraph III of the complaint, during the period June 1997 through February 1999, Respondent purchased, received and accepted in interstate

commerce 209 shipments of perishable agricultural commodities from 13 sellers, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$676,276.81.

5. Respondent filed a Chapter Eleven Petition in the U.S. Bankruptcy Court for the Eastern District of New York on January 25, 1999. The Bankruptcy Court assigned case number 99-10971-260 to the filing. Respondent admitted in its Bankruptcy schedules that all 13 sellers listed in paragraph III of the complaint hold unsecured claims for produce debt in the total amount of \$710,941.98.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 4 above, constitutes willful, flagrant, and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances set forth above shall be published.

This order shall take effect on the eleventh day after this Decision becomes final. Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. § 1.139 and 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became effective September 2, 2001. - Editor]
